

advise as to the option for obtaining less costly flood insurance; and

(vi) Advise that a MPPP policy will be purchased by the lender if evidence of flood insurance coverage is not received by a date certain.

(5) The second notification letter must remind the mortgagor of the previous notice and provide essentially the same information.

(6) The final notification letter must:

(i) Enclose a copy of the flood insurance policy purchased under the MPPP on the mortgagor's (insured's) behalf, together with the Declarations Page,

(ii) Advise that the policy was purchased because of the failure to respond to the previous notices, and

(iii) Remind the insured that similar coverage may be available at significantly lower cost and advise that the policy can be cancelled at any time during the policy year and a pro rata refund provided for the unearned portion of the premium in the event the insured purchases another policy that is acceptable to satisfy the requirements of the 1973 Act.

[61 FR 51219, Oct. 1, 1996, as amended at 64 FR 56176, Oct. 18, 1999; 67 FR 13549, Mar. 22, 2002; 69 FR 45610, July 30, 2004; 74 FR 15341, Apr. 3, 2009]

#### § 62.24 WYO participation criteria.

New companies or organizations eligible for the pilot project we describe in paragraph (b) of this section that seek to participate in the WYO program, as well as former WYO companies seeking to return to the WYO program, must meet standards for financial capability and stability for statistical and financial reporting and for commitment to program objectives.

(a) To demonstrate the ability to meet the financial requirements, a private insurance company wishing to enter or reenter the WYO program must:

(1) Be a licensed property insurance company;

(2) Have a five (5) year history of writing property insurance;

(3) Disclose any legal proceedings, suspensions, judgments, settlements, or agreements reached with any State insurance department, State attorney general, State corporation commission, or the Federal Government during the

immediately prior five (5) years regarding the company's business practices;

(4) Submit its most recent National Association of Insurance Commissioners (NAIC) annual statement;

(5) Submit information, as data become available, to indicate that the company meets or exceeds NAIC standards for risk-based capital and surplus; and

(6) Submit its last State or regional audit, which should contain no material negative findings.

(b) To demonstrate the ability to meet the financial requirements, a public entity risk-sharing organization, an association of local governments, a State association of political subdivisions, a State-sponsored municipal league, and any other intergovernmental risk-sharing pool for covering public entity structures, wishing to enter the WYO program, which will end September 30, 2004, must:

(1) Have authority by a State to provide property coverage to its members;

(2) Have a five (5) year history of writing property coverage;

(3) Disclose any legal proceedings, suspensions, judgments, settlements, or agreements reached with any State insurance department, State attorney general, State corporation commission, or the Federal Government during the immediately prior five (5) years regarding the other insurer's business practices; and

(4) Submit its most recent two annual audits from an independent accounting firm performed in compliance with generally accepted accounting principles that show no material negative findings; and submit, as data become available, information to indicate that the other insurer meets or exceeds standards comparable to those of the NAIC for risk-based capital and surplus.

(c) An applicant for entry or reentry in the WYO program must also pass a test to determine the applicant's ability to process flood insurance and meet the Transaction Record Reporting and Processing (TRRP) Plan requirements of the WYO Financial Control Plan. Unless the test requirement is waived, e.g., where an already qualified performer will fulfill the applicant's reporting requirements, the applicant

must prepare and submit test output monthly tape(s) and monthly financial statements and reconciliations for processing by the NFIP Bureau and Statistical Agent contractor. For test purposes, no error tolerance will be allowed. If the applicant fails the initial test, a second test will be run, which the applicant must pass to participate in the Program.

(d) To satisfy the requirement for commitment to Program goals, including marketing of flood insurance policies, the applicant will submit information concerning its plans for the WYO Program including plans for the training and support of producers and staff, marketing plans and sales targets, and claims handling and disaster response plans. Applicants must also identify those aspects of their planned flood insurance operations to be performed by another organization, managing agent, another WYO Company, a WYO vendor, a service bureau or related organization. Applicants will also name, in addition to a Principal Coordinator, a corporate officer point of contact—an individual, e.g., at the level of Senior Executive Vice President, who reports directly to the Chief Executive Officer or the Chief Operating Officer. Each applicant shall furnish the latest available information regarding the number of its fire, allied lines, farm-owners multiple peril, homeowners multiple peril, and commercial multiple peril policies or coverage documents in force, by line. A private insurance company applying for participation in the WYO program shall also furnish its Best's Financial Size Category for the purpose of setting marketing goals.

[67 FR 13550, Mar. 22, 2002]

#### APPENDIX A TO PART 62—FEDERAL EMERGENCY MANAGEMENT AGENCY, FEDERAL INSURANCE ADMINISTRATION, FINANCIAL ASSISTANCE/SUBSIDY ARRANGEMENT

*Purpose:* To assist the company in underwriting flood insurance using the Standard Flood Insurance Policy.

*Accounting Data:* Pursuant to Section 1310 of the Act, a Letter of Credit shall be issued for payment as provided for herein from the National Flood Insurance Fund.

*Effective Date:* October 1, 2004.

*Issued By:* Federal Emergency Management Agency, Federal Insurance Administration, Washington, DC 20472.

#### ARTICLE I—FINDINGS, PURPOSE, AND AUTHORITY

Whereas, the Congress in its “Finding and Declaration of Purpose” in the National Flood Insurance Act of 1968, as amended, (“the Act” or “Act”) recognized the benefit of having the National Flood Insurance Program (the “Program” or “NFIP”) “carried out to the maximum extent practicable by the private insurance industry”; and

Whereas the Federal Insurance Administration (FIA) within the Mitigation Division recognizes this Arrangement as coming under the provisions of Section 1345 of the Act (42 U.S.C. 4081); and

Whereas, the goal of the FIA is to develop a program with the insurance industry where, over time, some risk-bearing role for the industry will evolve as intended by the Congress (Section 1304 of the Act (42 U.S.C. 4011)); and

Whereas, the insurer (hereinafter the “Company”) under this Arrangement shall charge rates established by the FIA; and

Whereas, FIA has promulgated regulations and guidance implementing the Act and the Write-Your-Own Program whereby participating private insurance companies act in a fiduciary capacity utilizing Federal funds to sell and administer the Standard Flood Insurance Policies, and has extensively regulated the participating companies’ activities when selling or administering the Standard Flood Insurance Policies; and

Whereas, any litigation resulting from, related to, or arising from the Company’s compliance with the written standards, procedures, and guidance issued by FEMA or FIA arises under the Act, regulations, or FIA guidance, and legal issues thereunder raise a federal question; and

Whereas, through this Arrangement, the Federal Treasury will back all flood policy claim payments by the Company; and

Whereas, this Arrangement has been developed to enable any interested qualified insurer to write flood insurance under its own name; and

Whereas, one of the primary objectives of the Program is to provide coverage to the maximum number of structures at risk and because the insurance industry has marketing access through its existing facilities not directly available to the FIA, it has been concluded that coverage will be extended to those who would not otherwise be insured under the Program; and

Whereas, flood insurance policies issued subject to this Arrangement shall be only that insurance written by the Company in its own name under prescribed policy conditions and pursuant to this Arrangement and the Act; and